

FIL ORIGINAL

IN THE UNITED STATES BANKRUPTCY COURT  
2001 MAY -2 AM 8:54

FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
           )  
 W. R. GRACE & CO., *et al.*, ) Case No. 01-1139 (JJF)  
           )  
           ) **Hearing Date: 5/3/01 at 8:00 am.**  
           )  
 Debtors. ) Jointly Administered

CLERK  
US BANKRUPTCY COURT  
DISTRICT OF DELAWARE

**OBJECTION OF THE OFFICIAL COMMITTEE OF ASBESTOS  
 BODILY INJURY CLAIMANTS (TO THE MOTION FOR RELIEF FROM THE  
 AUTOMATIC STAY OF PAUL PRICE, INDIVIDUALLY AND AS  
 PROPOSED CLASS REPRESENTATIVE IN *IN RE ZONOLITE ATTIC  
 INSULATION PRODUCTS LIABILITY LITIGATION, MDL 1376***

The Official Committee of Asbestos Bodily Injury Claimants (the “B.I. Committee”), by and through its undersigned counsel, hereby objects (the “Objection”) to the Motion for Relief from the Automatic Stay of Paul Price, Individually and as Proposed Class Representative in *In re: Zonolite Attic Insulation Products Liability Litigation*, MDL 1376 (the “Motion”). In support of the Objection, the B.I. Committee respectfully submits:

**BACKGROUND**

1. On April 2, 2001 (the “Petition Date”), W.R. Grace & Co. (“Grace”) and its affiliated debtors and debtors in possession (collectively, the “Debtors”) commenced the instant proceedings by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) with the Clerk of this Court. The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code. On the Petition Date, the Court entered an order authorizing the joint administration of these cases for procedural purposes.

168

2. No trustee or examiner has been appointed in these cases. On April 12, 2001, the United States Trustee for the District of Delaware appointed the B.I. Committee, the Official Committee of Asbestos Property Damage Claimants (the "P.D. Committee") and the Official Committee of Unsecured Creditors (the "General Creditors' Committee," and collectively with the B.I. Committee and the P.D. Committee, the "Committees").

3. On April 25, 2001, the Motion was filed on behalf of Paul Price, individually and as proposed class representative of a class of plaintiffs (the "Proposed Class Plaintiffs") in multi-district litigation currently pending before the United States District Court for the District of Massachusetts (the "Massachusetts Litigation").

#### **JURISDICTION AND VENUE**

4. The Court has jurisdiction to hear the Motion and the Objection pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper in this District pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicate for the relief sought in the Motion is section and 362 of the Bankruptcy Code.

#### **OBJECTION**

5. Through the Motion, the Proposed Class Plaintiffs seek relief from the automatic stay provisions of section 362 of the Bankruptcy Code in order to proceed in the Massachusetts Litigation so as to seek certification of a nationwide class of persons and continue with certain discreet discovery. The B.I. Committee respectfully submits that the relief sought in the Motion should be denied by the Court.

6. The Proposed Class Plaintiffs are only a subset of the individuals who possess asbestos-related claims against the Debtors' estates. The B.I. Committee submits that it is too early in these proceedings to permit one group of litigants to proceed with piecemeal adjudication of such

claims outside of these bankruptcy proceedings. Moreover, the Massachusetts Litigation is not mature and therefore no harm will be caused to the Proposed Class Plaintiffs by denying the requested relief at this time.

7. Additionally, the Proposed Class Plaintiffs seek recovery in the Massachusetts Litigation predicated, in part, upon fraudulent conveyance theories. The Debtors are presently seeking an injunction to prevent the litigation of such theories against certain third parties. Contemporaneously herewith, the B.I. Committee has filed its response and limited objection to such relief in which it suggests that the Court maintain the status quo as to all such causes of action in order to permit the parties to these reorganization cases sufficient time to determine the best manner in which to proceed. Granting the relief sought in the Motion would frustrate the parties' abilities to determine the proper manner in which to deal with the claims globally and therefore should be denied.

**CONCLUSION**

WHEREFORE, the B.I. Committee respectfully requests that the Court sustain the objections contained herein, deny the Motion, and grant such other and further relief as is just and equitable.

CAPLIN & DRYSDALE, CHARTERED  
Elihu Inselbuch  
399 Park Avenue  
New York, NY 10022  
(212) 319-7125

-and-

CAPLIN & DRYSDALE, CHARTERED  
Peter Van N. Lockwood  
One Thomas Circle, N.W.  
Washington, DC 20005  
(202) 862-5000

-and-

ASHBY & GEDDES



---

William P. Bowden (I.D. #2553)  
Matthew G. Zaleski, III (I.D. # 3557)  
222 Delaware Avenue, 17<sup>th</sup> Floor  
P.O. Box 1150  
Wilmington, DE 19899  
(302) 654-1888

Proposed Counsel to the Official Committee  
of Asbestos Bodily Injury Claimants

Dated: May 2, 2001  
94434.1

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

In re: ) Chapter 11  
 )  
W. R. GRACE & CO., *et al.*, ) Case No. 01-1139 (JJF)  
 )  
Debtors. ) Jointly Administered

**CERTIFICATE OF SERVICE**

I, Matthew G. Zaleski, III, Esquire, hereby certify that on May 2, 2001, I served the foregoing document on each of the parties on the attached list via facsimile. Additionally, I caused a copy of the foregoing document to be served on each of the parties on the attached list via overnight delivery, unless otherwise indicated.

Dated: Wilmington, Delaware  
May 2, 2001



Matthew G. Zaleski, III

**W.R. Grace 2002 Service List****Hand Delivery**

Mark D. Collins, Esquire  
 Deborah E. Spivak, Esquire  
 Richards, Layton & Finger, P.A.  
 One Rodney Square  
 Wilmington, DE 19899

**Hand Delivery**

Steven M. Yoder, Esquire  
 The Bayard Firm  
 222 Delaware Avenue, Suite 900  
 Wilmington, DE 19899

**Hand Delivery**

Bruce E. Jameson, Esquire  
 Prickett Jones & Elliott  
 1310 King Street  
 Wilmington, DE 19899

**Hand Delivery**

Michael R. Lastowski, Esquire  
 Duane Morris & Heckshire LLP  
 1100 North Market Street, Suite 1200  
 P.O. Box 195  
 Wilmington, DE 19801

Hamid R. Rafatjoo, Esquire  
 Pachulski, Stang, Ziehl, Young & Jones  
 10100 Santa Monica Boulevard  
 Los Angeles, CA 90067-4100

Lewis Kruger, Esquire  
 Stroock & Stroock & Lavan LLP  
 180 Maiden Lane  
 New York, NY 10038-4982

Thomas M. Sobol, Esquire  
 Jan R. Schlichtman, Esquire  
 Matthew L. Lucillo, Esquire  
 Lieff, Cabraser, Heilmann & Bernstein, LLP  
 214 Union Warf  
 Boston, MA 02109-1216

David Pastor, Esquire  
 Edward L. Manchur, Esquire  
 Gilman and Pastor, LLP  
 Stonehill Corporate Center  
 999 Broadway, Suite 500  
 Saugus, MA 01906

**Hand Delivery**

Laura Davis Jones, Esquire  
 David Carickoff, Esquire  
 Pachulski, Stang, Ziehl, Young & Jones  
 919 North Market Street, 16th Floor  
 Wilmington, DE 19899-8705

**Hand Delivery**

Jeffrey C. Wisler, Esquire  
 Michelle McMahon, Esquire  
 Connolly Bove Lodge & Hutz LLP  
 1220 Market Street, 10<sup>th</sup> Floor  
 Wilmington, DE 19899

**Hand Delivery**

Mark S. Chehi, Esquire  
 Skadden Arps Slate Meagher & Flom, LLP  
 One Rodney Square, 6<sup>th</sup> Floor  
 Wilmington, DE 19899

**Hand Delivery**

William D. Sullivan, Esquire  
 Elzufon Austin Reardon Tarlov & Mondell  
 300 Delaware Avenue, Suite 1700  
 P.O. Box 1630  
 Wilmington, DE 19899-1630

Stephen H. Case, Esquire  
 Nancy L. Lazar, Esquire  
 Davis Polk & Wardwell  
 450 Lexington Avenue  
 New York, NY 10017

Scott L. Baena, Esquire  
 Richard M. Dunn, Esquire  
 Bilzin Sumberg Dunn Baena Price & Axelrod  
 2500 First Union Fin. Center  
 200 South Biscayne Blvd.  
 Miami, FL 33131-2336

D. J. Baker, Esquire  
 Skadden, Arps, Slate, Meagher & Flom LLP  
 Four Times Square  
 New York, NY 10036

Lewis T. LeClair, Esquire  
 McKool Smith, P.C.  
 300 Crescent Court, Suite 1500  
 Dallas, TX 75201

Edward J. Westbrook, Esquire  
 Robert M. Turkewitz, Esquire  
 Ness Motley Loadholt Richardson & Poole  
 28 Bridgeside Blvd.  
 P.O. Box 1792  
 Mt. Pleasant, SC 29465

**Hand Delivery**

William H. Sudell, Jr., Esquire  
 Eric D. Schwartz, Esquire  
 Morris, Nichols Arsh & Tunnell  
 1201 N. Market Street  
 Wilmington, DE 19899

**Hand Delivery**

Parcels, Inc.  
 Vito I. DiMaio  
 10th & King Streets  
 Wilmington, DE 19801

**Hand Delivery**

Michael B. Joseph, Esquire  
 Theodore J. Tacconelli, Esquire  
 Ferry & Joseph  
 824 Market Street  
 Wilmington, DE 19899

**Hand Delivery**

Frank J. Perch, Esquire  
 Office of the United States Trustee  
 844 N. King Street  
 Wilmington, DE 19801

J. Douglas Bacon, Esquire  
 Latham & Watkins  
 Sears Tower, Suite 5800  
 Chicago, IL 60606

James H.M. Sprayregen, Esquire  
 James Kapp, III, Esquire  
 Kirkland & Ellis  
 200 East Randolph Drive  
 Chicago, IL 60601

Elizabeth Cabraser, Esquire  
 Fabrice N. Vincent, Esquire  
 Lieff, Cabraser, Heimann & Bernstein  
 Embarcadero Center West, 30<sup>th</sup> Floor  
 275 Battery Street  
 San Francisco, CA 94111

John J. Stoia, Jr., Esquire  
 Timothy G. Blood, Esquire  
 Milberg Weiss Bershad Hynes & Lerach  
 600 West Broadway  
 1800 One America Plaza  
 San Diego, CA 92101-5050

Robert M. Fishman, Esquire  
 Shaw Gussis Domanskis Fishman & Glantz  
 1144 West Fulton Street, Suite 200  
 Chicago, Illinois 60607